



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,986	03/14/2002	Cenneth Gunnarsson	33980R002	6426

441 7590 11/05/2003

SMITH, GAMBRELL & RUSSELL, LLP  
1850 M STREET, N.W., SUITE 800  
WASHINGTON, DC 20036

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
----------	--------------

3653

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/070,986

Applicant(s)

GUNNARSSON, CENNETH

Examiner

Joseph C Rodriguez

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 21 October 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Final Rejection***

Applicant's arguments filed 10/21/03 have been fully considered but they are not persuasive for reasons detailed below.

The 35 U.S.C. 112 rejections are maintained or modified as follows:

These rejections have been withdrawn.

The prior art rejections are maintained or modified as follows:

New claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Ritola (US '755).

Regarding claim 1 and 2, Ritola teaches an apparatus (Fig. 1-5) comprising a substantially vertical conveyor (30), sorting compartments (40), and a transfer device including a transfer member (72), wherein said transfer member moves in and out of a gripping and rest position on a side of the conveyor "facing the sorting compartments" (col. 3, ln. 68 et seq.).

New claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Dron (US '307).

Dron teaches an apparatus (Fig. 2-4) comprising a substantially vertical conveyor (45-49), sorting compartments (near 54-58), and a transfer device including a transfer member (62), wherein said transfer member moves in and out of a gripping and rest

Art Unit: 3653

position on a side of the conveyor "facing the sorting compartments" (Fig. 3; col. 3, ln. 10 et seq.).

Claims 1-4, 9, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Klyver et al. ("Klyver") (US '331).

Klyver teaches an apparatus (Fig. 1-3) comprising a substantially vertical conveyor (15, 31, 32), sorting compartments (near C), carriers (near 55) and a transfer device including a transfer member with roller paths (Fig. 3, near 56), wherein said transfer member moves in and out of an active position outside the conveyor path (Fig. 3; p. 2, ln. 98 et seq.).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klyver in view of what is well known in the art as demonstrated by Ritola.

Klyver as set forth above teaches all that is claimed except for expressly teaching circulating driven belts for moving the objects. This feature, however, is well-known in the conveying arts. Here, the mere use of circulating driven belts cannot be considered novel when the majority of conveying devices use driven belts to convey objects. Ritola

Art Unit: 3653

demonstrates that driven belts are used with elongate objects (Fig. 1, 2; belt 30) and that these belts can be regarded as well known functional equivalents to the roller paths previously discussed. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Dron as taught above.

***Allowable Subject Matter***

Claim 8 is allowed.

Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3653

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is **703-308-8342**. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

The examiner's **Personal fax number** is **703-746-3678**.

The **Official** fax phone number for the organization where this application or proceeding is assigned is **703-872-9326**.

The **UnOfficial** fax phone number for the organization where this application or proceeding is assigned is **703-306-2571 or 703-308-6552**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

\*\*\*

November 3, 2003

  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600